



## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[Docket No. FWS-R4-ES-2023-0106; FF09E21000 FXES11130900000234]

### Endangered and Threatened Wildlife and Plants; 90-Day Findings for Two Petitions To Reclassify the West Indian Manatee

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notification of petition findings and initiation of status review.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce two 90-day findings on petitions to reclassify the West Indian manatee (*Trichechus manatus*), or populations thereof, under the Endangered Species Act of 1973, as amended (Act). Two valid subspecies of the West Indian manatee, the Florida manatee (*Trichechus manatus latirostris*) and Antillean manatee (*Trichechus manatus manatus*), are currently protected under the Act as part of the threatened West Indian manatee species-level listing. One petition requests the Puerto Rico population of the Antillean manatee be listed as an endangered distinct population segment (DPS) and critical habitat be designated for this entity under the Act. The second petition requests to reclassify the West Indian manatee, including its subspecies the Antillean manatee and Florida manatee, as endangered species under the Act. Based on our review, we find that the petitions present substantial scientific or commercial information indicating that the petitioned actions may be warranted. Therefore, with the publication of this document, we announce that we plan to initiate a status review to determine whether the petitioned actions are warranted. To ensure that the status review is comprehensive, we are requesting new scientific and commercial data and other information regarding the West Indian manatee throughout its range, including information specific to the Puerto Rico population of Antillean manatee, and factors that may affect their

status. Based on the status review, we will issue a 12-month petition finding, which will address whether or not the petitioned actions are warranted, in accordance with the Act.

**DATES:** The findings announced in this document were made on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** *Supporting documents:* A summary of the basis for the petition findings contained in this document is available on <https://www.regulations.gov> in Docket No. FWS-R4-ES-2023-0106. In addition, this supporting information is available by contacting the person specified in **FOR FURTHER INFORMATION CONTACT**.

*Status reviews:* If you have new scientific or commercial data or other information concerning the status of, or threats to, the West Indian manatee, the Puerto Rico population of Antillean manatee, or their habitats, particularly new information available since our April 5, 2017, reclassification (April 5, 2017; 82 FR 16668), please provide those data or information by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: <https://www.regulations.gov>. In the Search box, enter FWS-R4-ES-2023-0106, which is the docket number for this action. Then, click on the “Search” button. After finding the correct document, you may submit information by clicking on “Comment.” If your information will fit in the provided comment box, please use this feature of <https://www.regulations.gov>, as it is most compatible with our information review procedures. If you attach your information as a separate document, our preferred file format is Microsoft Word. If you attach multiple comments (such as form letters), our preferred format is a spreadsheet in Microsoft Excel.

(2) *By hard copy:* Submit by U.S. mail to: Public Comments Processing, Attn: FWS-R4-ES-2023-0106, U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send information only by the methods described above. Any information we receive during the course of our status review will be considered, and we will

post all information we receive on <https://www.regulations.gov>. This generally means that we will post any personal information you provide us.

**FOR FURTHER INFORMATION CONTACT:** Nicole Rankin, Division of Conservation and Classification Manager, telephone: 404–679–7089, email: [Nicole\\_Rankin@fws.gov](mailto:Nicole_Rankin@fws.gov).

Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

## **SUPPLEMENTARY INFORMATION:**

### **Information Submitted for a Status Review**

You may submit your comments and materials concerning the status of, or threats to, the West Indian manatee, its subspecies or populations, including the Puerto Rico population of Antillean manatee, or their habitats, by one of the methods listed above in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**. Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

If you submit information via <https://www.regulations.gov>, your entire submission—including any personal identifying information—will be posted on the website. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on <https://www.regulations.gov>.

Comments and materials we receive, as well as supporting documentation we used in preparing these findings, will be available for public inspection on <https://www.regulations.gov>.

## **Background**

Section 4 of the Act (16 U.S.C. 1533 et seq.) and its implementing regulations in title 50

of the Code of Federal Regulations (50 CFR part 424) set forth the procedures for adding species to, removing species from, or reclassifying species on the Federal Lists of Endangered and Threatened Wildlife and Plants (Lists) in 50 CFR part 17. Section 4(b)(3)(A) of the Act requires that we make a finding on whether a petition to add a species to the Lists (i.e., “list” a species), remove a species from the Lists (i.e., “delist” a species), or change a listed species’ status from endangered to threatened or from threatened to endangered (i.e., “reclassify” a species) presents substantial scientific or commercial information indicating that the petitioned action may be warranted. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition and publish the finding promptly in the *Federal Register*.

Our regulations establish that substantial scientific or commercial information with regard to a 90-day petition finding refers to credible scientific or commercial information in support of the petition’s claims such that a reasonable person conducting an impartial scientific review would conclude that the action proposed in the petition may be warranted (50 CFR 424.14(h)(1)(i)).

A species may be determined to be an endangered species or a threatened species because of one or more of the five factors described in section 4(a)(1) of the Act (16 U.S.C. 1533(a)(1)). The five factors are:

- (a) The present or threatened destruction, modification, or curtailment of its habitat or range (Factor A);
- (b) Overutilization for commercial, recreational, scientific, or educational purposes (Factor B);
- (c) Disease or predation (Factor C);
- (d) The inadequacy of existing regulatory mechanisms (Factor D); and
- (e) Other natural or manmade factors affecting its continued existence (Factor E).

These factors represent broad categories of natural or human-caused actions or conditions that could have an effect on a species’ continued existence. In evaluating these actions and

conditions, we look for those that may have a negative effect on individuals of the species, as well as other actions or conditions that may ameliorate any negative effects or may have positive effects.

We use the term “threat” to refer in general to actions or conditions that are known to, or are reasonably likely to, affect individuals of a species negatively. The term “threat” includes actions or conditions that have a direct impact on individuals (direct impacts), as well as those that affect individuals through alteration of their habitat or required resources (stressors). The term “threat” may encompass—either together or separately—the source of the action or condition, or the action or condition itself. However, the mere identification of any threat(s) may not be sufficient to compel a finding that the information in the petition is substantial information indicating that the petitioned action may be warranted. The information presented in a petition must include evidence sufficient to suggest that these threats may be affecting the species to the point that the species may meet the definition of an endangered species or threatened species under the Act.

If we find that a petition presents such information, our subsequent status review will evaluate all identified threats by considering the individual-, population-, and species-level effects and the expected response by the species. We will evaluate individual threats and their expected effects on the species, then analyze the cumulative effect of the threats on the species as a whole. We also consider the cumulative effect of the threats in light of those actions and conditions that are expected to have positive effects on the species—such as any existing regulatory mechanisms or conservation efforts that may ameliorate threats. It is only after conducting this cumulative analysis of threats and the actions that may ameliorate them, and the expected effect on the species now and in the foreseeable future, that we can determine whether the species meets the definition of an endangered species or threatened species under the Act. If we find that a petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted, the Act requires that we promptly commence a review of

the status of the species, and we will subsequently complete a status review in accordance with our prioritization methodology for 12-month findings (81 FR 49248; July 27, 2016).

We note that designating critical habitat is not a petitionable action under the Act. Petitions to designate critical habitat (for species without existing critical habitat, including a potential DPS of the Puerto Rico population of Antillean manatee) are reviewed under the Administrative Procedure Act (5 U.S.C. 1531 et seq.) and are not addressed in this finding (see 50 CFR 424.14(j)). To the maximum extent prudent and determinable, any proposed critical habitat will be addressed concurrently with a proposed rule to list a species, if applicable.

### **Species and Range**

The West Indian manatee (*Trichechus manatus*) is currently listed on the List of Endangered and Threatened Wildlife at 50 CFR 17.11(h) as a threatened species under the Act (April 5, 2017; 82 FR 16668). The West Indian manatee includes two valid subspecies, the Florida manatee (*Trichechus manatus latirostris*) and Antillean manatee (*Trichechus manatus manatus*). The range of the Florida manatee includes the U.S. Atlantic and Gulf of Mexico coasts, as well as northern portions of the Caribbean, from the Bahamas to Turks and Caicos. The Antillean manatee is found in the southern portions of the Caribbean, including Cuba, Hispaniola, Puerto Rico, Virgin Islands, Cayman Islands, and Jamaica; in Central America from Mexico's southeast Caribbean coast to the Caribbean coast of Panama; Trinidad and Tobago; and south to Brazil's Atlantic coastline.

### **History of the Petitions Received**

On October 21, 2021, we received a petition from Julio C. Colón requesting that the Puerto Rico population of the Antillean manatee be listed as an endangered distinct population segment (DPS) and that critical habitat be designated for this entity under the Act. On November 21, 2022, we received a petition from the Center for Biological Diversity, Brooks McCormick Jr. Animal Law & Policy Program at Harvard Law School, Miami Waterkeeper, Save the Manatee Club, and Frank S. González García requesting that the West Indian manatee, including its

subspecies Florida manatee and Antillean manatee, be reclassified as endangered. Both petitions clearly identified themselves as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c). This finding addresses both of those petitions.

### **Summary of Petition Findings**

#### *Evaluation of a Petition To Designate and Reclassify (Uplist) the Puerto Rico Population of Antillean Manatee*

Because the West Indian manatee includes two recognized subspecies, the Florida manatee (*Trichechus manatus latirostris*) and the Antillean manatee (*Trichechus manatus manatus*), the Puerto Rico population of the Antillean manatee is currently protected under the Act as part of the threatened West Indian manatee species-level listing. Julio C. Colón's petition requests that we determine the Puerto Rico population of the Antillean manatee is a DPS, uplist it as an endangered species, and designate critical habitat for the DPS under the Act. We find that the petition presents substantial information that the Puerto Rico population of Antillean manatee may qualify as a DPS. Additionally, we find that the petition presents substantial information that boat collisions (Factor E) and low genetic diversity and isolation (Factor E) may be threats to the Puerto Rico manatee population such that the population may meet the definition of an endangered species under the Act. Therefore, we find that the petition presents substantial information that the petitioned action, identifying and then reclassifying as endangered a Puerto Rico DPS, may be warranted, and we will commence a status review to determine if the action is warranted. During our 12-month status review, if we determine the Puerto Rico manatee population is a DPS, we will fully evaluate all relevant threats and conservation actions in detail pursuant to the Act's requirement to review the best scientific and commercial information available to support a finding that the Puerto Rico DPS is in danger of extinction throughout all or a significant portion of its range.

#### *Evaluation of a Petition To Reclassify (Uplist) the West Indian Manatee and Subspecies Florida Manatee and Antillean Manatee*

The petition from the Center for Biological Diversity, Brooks McCormick Jr. Animal Law & Policy Program at Harvard Law School, Miami Waterkeeper, Save the Manatee Club, and Frank S. González García requests that we reclassify the West Indian manatee, including its subspecies Florida manatee and Antillean manatee, as an endangered species under the Act. We find the petition presents substantial information that seagrass loss (Factor A) may be a threat to the species such that it may meet the definition of an endangered species under the Act. Therefore, we find that the petition presents substantial information that the petitioned action, reclassifying the West Indian manatee as endangered, may be warranted and we will commence a status review to determine if the action is warranted.

The petition also presented information suggesting other activities may be threats to the West Indian manatee, including loss of warm-water refugia, loss of freshwater access, coastal development, and boating and recreational disturbance (Factor A); harassment (Factor B); bacterial infections (Factor C); and boat strikes, marine debris, contaminants, invasive species, and climate change (Factor E). Our status review will evaluate all relevant threats and conservation actions in detail based on the best scientific and commercial data available, including whether these threats towards the listed or listable entities may be ameliorated or exacerbated by any existing regulatory mechanisms or conservation efforts to support a finding that the West Indian manatee, Florida manatee, or Antillean manatee is in danger of extinction throughout all or a significant portion of its range.

#### *Evaluation of Information Summary and Finding*

We reviewed the petitions, sources cited in the petitions, and other readily available information. We considered the factors under section 4(a)(1) of the Act and assessed the effect that the threats identified within the factors may have on the Puerto Rico population of Antillean manatee and the West Indian manatee now and in the foreseeable future. We also considered existing regulatory mechanisms or conservation efforts that may ameliorate, reduce, or exacerbate the threats. Based on our review of the petitions and readily available information



regarding boat collisions, genetic diversity loss, and seagrass loss, we find that these two petitions present credible and substantial information that the petitioned actions may be warranted. We will fully evaluate these and all other potential threats for the listed and listable entities, as well as the validity of the Puerto Rico DPS, in detail based on the best scientific and commercial data available when we conduct a status assessment and make the 12-month findings.

In accordance with the requirements of the statute, our 12-month findings on these two petitions to identify and reclassify a DPS in Puerto Rico, as well as reclassify (uplist) the West Indian manatee and its subspecies, the Florida manatee and Antillean manatee, will be based upon the best scientific and commercial data available and will not be limited to the information presented in the petitions. Similarly, if we make one or more “warranted” 12-month findings, we may identify a DPS in that finding based on the best scientific and commercial data available; we will not be limited to the possible DPS described in the petition. If we do identify and propose to uplist a DPS, we will consider that proposal in the context of the ongoing recovery for the rest of the population in the larger currently listed entity.

The basis for our finding on these petitions, and other information regarding our review of the petitions, including the 2017 reclassification and 2007 5-year status review, can be found at <https://www.regulations.gov> under Docket No. FWS-R4-ES-2023-0106 under the Supporting & Related Material section.

## **Conclusion**

On the basis of our evaluation of the information presented in the petitions under sections 4(b)(3)(A) and 4(b)(3)(D)(i) of the Act, we have determined that the two petitions summarized above for the Puerto Rico population of Antillean manatee, as well as the West Indian manatee, present substantial scientific or commercial information indicating that the petitioned actions may be warranted. We are, therefore, initiating a status review of the West Indian manatee rangewide. This status review will include a determination on whether a Puerto Rico DPS for the

Antillean manatee has the same or a different status than the Antillean manatee rangewide. This status review will determine whether the petitioned actions are warranted under the Act. At the conclusion of the status review, we will issue a finding, in accordance with section 4(b)(3)(B) of the Act, as to whether the petitioned actions are not warranted, warranted, or warranted but precluded by pending proposals to determine whether other species are an endangered or threatened species.

### **Authors**

The primary authors of this document are staff members of the Division of Conservation and Classification, Ecological Services Program, U.S. Fish and Wildlife Service.

### **Authority**

The authority for these actions is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.).

**Janine Velasco,**  
*Acting Director,*  
*U.S. Fish and Wildlife Service.*

[FR Doc. 2023-21674 Filed: 10/11/2023 8:45 am; Publication Date: 10/12/2023]